

**UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION**

**5:03CV49-3-V
(5:98CR289-V)**

TERRY KERMIT JOHNSON,)
)
 Petitioner,)
)
 v.)
)
 UNITED STATES OF AMERICA,)
 Respondent.)
 _____)

ORDER

THIS MATTER is before the Court on Petitioner’s “Motion for Reconsideration of denial 60(b)(1)(4) Pursuant to Rule 59(e) of the Civil Rules of Procedure” (Document No. 51) which is Petitioner’s fifth Motion for Reconsideration.

By filing this Motion, Petitioner essentially seeks reconsideration of his Motion to Vacate filed pursuant to 28 U.S.C. § 2255 which this Court denied by Order dated July 5, 2006 (Document No. 24). Petitioner filed the instant motion pursuant to Rule 59(e) claiming that this court made a mistake in deciding the claim relating to the Allen charge given during jury deliberations of his trial.

In the Court’s Order denying Petitioner’s third motion for reconsideration, the Court cautioned that future motions to reconsider would be construed as abusive and would be summarily denied. (Document No. 33.) Furthermore, in the Court’s most recent Order denying Petitioner’s fourth motion for reconsideration, the Court stated that it could not consider any petitions or motions which essentially continue to attack his conviction and sentence unless Petitioner seeks and is granted certification to appeal by the Fourth Circuit Court of Appeals prior to filing in this Court

(Document No. 50.) Petitioner has not sought such certification. Therefore, Petitioner's fifth motion for reconsideration is summarily denied.

SO ORDERED.

Signed: August 10, 2007

A handwritten signature in black ink, reading "Richard L. Voorhees", written over a horizontal line.

Richard L. Voorhees
United States District Judge

